

**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

Appl. No. : 10/533,728
Applicant(s): Rolf Friedrich Philipp Becker
Filed: May 3, 2005
TC/A.U.: 2600/2618
Examiner: Rui Meng Hu
Atty. Docket: CH 020034
Confirmation No.: 5935
Title: MOBILE RADIO RECEIVE WITH
IMPROVED REAL-TIME PRECISION

APPEAL BRIEF FEE

Honorable Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In connection with the Appeal Brief filed concurrently, the Commissioner is hereby authorized to charge Deposit Account 50-0238 for the fee required for the filing of the Brief and for a one-month extension of time, extending the period of response to September 9, 2008.

Conclusion

In view of the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted on behalf of:

NXP Incorporated

s/William S. Francos/

by: William S. Francos (Reg. No. 38,456)

Date: August 30, 2008

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Sir:

In connection with the Notice of Appeal dated June 9, 2008, Applicants provide the following Appeal Brief in the above-captioned application.

REAL PARTY IN INTEREST

According to an assignment recorded at Reel 019719, Frame 0843, NXP, B.V. owns all of the rights in the above-identified U.S. patent application.

RELATED APPEALS AND INTERFERENCES

There are no known related appeals or interferences at this time.

STATUS OF CLAIMS

Claims 1-7 are all pending in the application.

Claims 8-11 are cancelled.

Accordingly, the claims on Appeal are claims 1-7.

STATUS OF AMENDMENTS

There are no pending amendments with respect to this application.

SUMMARY OF CLAIMED SUBJECT MATTER¹

According to a representative embodiment, a mobile radio comprises a GSM receiving unit (1), an analog-to-digital converter (3) next in line for converting analog signals into digital signals, a digital signal processor (4) for reconstructing and processing the received signals, a system controller (5) for controlling the components of the mobile radio, a real-time circuit (7) comprising an oscillator (8) and a display (6) for displaying information, in which a further receiving unit (19, 22) is arranged for receiving a time reference signal, which further receiving unit (19, 22) comprises an antenna (13, 18) for receiving time reference signals, tunable capacitors (12) for tuning to the transmit frequency and an amplifier (11) for amplifying the received time reference signal, and a multiplex unit (2) inserted between the GSM receiving unit (1) and the analog-to-digital converter (3), which multiplex unit (2) can be supplied with the received analog mobile radio signal and the time reference signal and in which mobile radio the received time reference signal can be applied at a predetermined instant to the digital signal processor (4) for demodulation and filtering and to the system controller (5) for decoding, and there is provided to update the real-time circuit (7) with the decoded time reference signal.

¹ In the description to follow, citations to various reference numerals, figures, and corresponding text in the specification are provided solely to comply with Patent Office rules. It should be understood that these reference numerals, figures, and text are exemplary in nature, and not in any way limiting of the true scope of the claims. It would therefore be improper to import anything into any of the claims simply on the basis of **exemplary** language that is provided here only under the obligation to satisfy Patent Office rules for maintaining an Appeal.

(Kindly refer to page 5, line 10 through page 6, line 6; Fig. 1; and claim 1 of the pending application for additional details.)

GROUND S OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to be reviewed on Appeal are:

1. The rejection of claims 1-5 and 7 35 U.S.C. § 103 over *Younis* (US PAP 20020168988), *Miyano, et al.* (GB 2238438) and *Sakami, et al.* (U.S. Patent 4,315,332); and
2. The rejection of claim 6 under 35 U.S.C. § 103 over *Younis, Miyano, et al., Sakami, et al.* and Eynothern (DE 19536580).

ARGUMENTS

1. Claims 1-5 and 7 are patentable over the applied art

i. Claim 1

Claim 1 recites:

A mobile radio, comprising:

a GSM receiving unit ,
an analog-to-digital converter next in line for converting analog signals into digital signals,
a digital signal processor for reconstructing and processing the received signals,
a system controller for controlling the components of the mobile radio,
a real-time circuit comprising an oscillator and a display for displaying information, in which another receiving unit is arranged for receiving a time reference signal, the other receiving unit comprises an antenna for receiving time reference signals, tunable capacitors for tuning to the transmit frequency and an amplifier for amplifying the received time reference signal, and
a multiplex unit inserted between the GSM receiving unit and the analog-to-

digital converter, which multiplex unit can be supplied with the received analog mobile radio signal and the time reference signal and in which mobile radio the received time reference signal can be applied at a predetermined instant to the digital signal processor for demodulation and filtering and to the system controller for decoding, and there is provided to update the real-time circuit with the decoded time reference signal.

The Office Action concedes that *Younis* fails to disclose the tuning capacitors and directs Applicants to *Sakami, et al.* The reference to *Sakami, et al.* as applied fails to cure this deficiency. Notably, the Office Action directs Applicants to column 1, line 10-15, 63-68 and the Abstract of *Sakami, et al.* for the disclosure of variable capacitance diodes. These diodes are exchanged for a condenser to realize a preset radio set in a small form factor. This allows the radio to be carried in a (wrist)watch. However, there is no disclosure of using these diodes for tuning a transmit frequency. Accordingly, Applicants respectfully submit that the applied art fails to disclose at least one feature of claim 1.

Applicants further traverse the rejection for the following reasons. It is established that rejections on obviousness grounds cannot be sustained by mere conclusory statements: instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. (*KSR Int'l v. Teleflex*, 127 S. Ct. at 1741). However, the Court in *KSR* continued: "A factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning. See *Graham*, 383 U.S., at 36, 86 S. Ct. 684, 15 L. Ed. 2d 545 (warning against a "temptation to read into the prior art the teachings of the invention in issue" and instructing courts to "'guard against slipping into the use of hindsight'" (quoting *Monroe Auto Equipment Co. v. Heckethorn Mfg. & Supply Co.*, 332 F.2d 406, 412 (CA6 1964)))." Moreover, if there is no suggestion to combine the teachings of the applied art, other than the use of Applicants' invention as a template for its own reconstruction, a rejection for obviousness is improper. *Ex parte Crawford, et al.* Appeal 20062429, May 30, 2007.

In rejecting claim 1, the Examiner relies on a wristwatch that includes a radio. For the alleged disclosure of tunable capacitors *for tuning to the transmit frequency*. As noted above, there is no disclosure that the variable capacitors are used for tuning, and more significantly, for tuning to a transmit frequency; **nor would there be because the timepiece does not transmit, but only receives**. Namely, the time piece has a radio to receive updates of the current time for the watch. There is no disclosure of a transmission of rf or other signals, and thus no disclosure or suggestion of tunable capacitors to achieve that end. As such, Applicants respectfully submit that is no rational underpinning to support the legal conclusion of obviousness at least because the timepiece would neither need nor include a device to tune to a transmit frequency when the timepiece does not transmit.

For at least the reasons set forth above, Applicants respectfully submit that because the reference fails to disclose at least one feature of claim 1; and because the applied art does not result in a *prima facie* case of obviousness, this claim is patentable over the applied art. Moreover, claims 2-7, which depend from claim 1 are patentable for at least the same reasons.

2. Claim 6 is patentable over the applied art

Claim 6 depends from claim 1 and thus is patentable for at least the same reasons. As such, while Applicants do not concede the propriety of the rejection of claim 6, Applicants maintain their position as to its patentability over the applied art.

Conclusion

In view the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

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Appendix

Claims on Appeal

1. A mobile radio, comprising:
 - a GSM receiving unit ,
 - an analog-to-digital converter next in line for converting analog signals into digital signals,
 - a digital signal processor for reconstructing and processing the received signals,
 - a system controller for controlling the components of the mobile radio,
 - a real-time circuit comprising an oscillator and a display for displaying information, in which another receiving unit is arranged for receiving a time reference signal, the other receiving unit comprises an antenna for receiving time reference signals, tunable capacitors for tuning to the transmit frequency and an amplifier for amplifying the received time reference signal, and
 - a multiplex unit inserted between the GSM receiving unit and the analog-to-digital converter , which multiplex unit can be supplied with the received analog mobile radio signal and the time reference signal and in which mobile radio the received time reference signal can be applied at a predetermined instant to the digital signal processor for demodulation and filtering and to the system controller for decoding, and there is provided to update the real-time circuit with the decoded time reference signal.
2. A mobile radio as claimed in claim 1, wherein the multiplex unit can be controlled by the system controller.
3. A mobile radio as claimed in claim 1, wherein the gain factor of the amplifier and the tunable capacitance can be set by the system controller.
4. A mobile radio as claimed in claim 1, wherein the real-time circuit can be updated by the system controller .
5. A mobile radio as claimed in claim 1, wherein the updating distance can be chosen at will or is fixedly programmed.

6. A mobile radio as claimed in claim 1, wherein the other receiving unit is a receiving unit for amplitude-modulated signals.
7. A mobile radio as claimed in claim 1, wherein the receiving unit is a receiving unit for frequency-modulated signals.

Appendix

Evidence (None)

Appendix

Related Proceedings (None)